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**UNITED STATES DISTRICT COURT**

DATE 5/19/11

**WESTERN DISTRICT OF LOUISIANA**

**MONROE DIVISION**

**MARTIN EVANS, ET AL.**

**CIVIL ACTION NO. 10-1916**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**INTERNATIONAL PAPER CO., ET AL.**

**MAG. JUDGE KAREN L. HAYES**

**RULING**


Pending before the Court is Defendant International Paper Co.'s ("IP") "Motion to Dismiss Plaintiffs' Class Action Petition" [Doc. No. 9]. On February 9, 2011, Plaintiffs filed an Opposition [Doc. No. 14]. On February 22, 2011, IP filed a Reply [Doc. No. 18].

On March 24, 2011, the Magistrate Judge issued a Report and Recommendation recommending that IP's motion to dismiss be granted in part and denied in part [Doc. No. 21]. On April 7, 2011, Plaintiffs and IP filed objections to the Report and Recommendation [Doc. Nos. 29 & 30].

The Court agrees with and ADOPTS the Report and Recommendation with one exception.

Plaintiffs objected to the Magistrate Judge's finding that "[o]ccupational hearing loss occurs simultaneously with exposure to excessive noise, and is complete when the exposure ceases." [Doc. No. 21, p. 16]. While the Court agrees with the Magistrate Judge's conclusion that prescription does not compel a 12(b)(6) dismissal of Plaintiffs' claims, the Court DECLINES TO ADOPT this specific finding from the Report and Recommendation.

MONROE, LOUISIANA, this 19 day of May, 2011.

  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE